IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1526 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

SAVITABEN MANILAL PATEL

Versus

MANAGING DIRECTOR

Appearance:

1. Special Civil Application No. 1526 of 1993

MR DJ CHAUHAN for Petitioner No. 1

MR PARESH UPADHYAY for Respondent No. 1

M/S TRIVEDI & GUPTA for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 02/07/2002

ORAL JUDGEMENT

#. The petitioner is a widow of one Manilal Gordhandas Patel who died while in service on 23.4.1991. The husband of the petitioner was serving as daily rated

employee as Operator in the Gujarat Water Resources Development Corporation and subsequently, he was given the status of work-charge employee. Unfortunately, while in service, he died on 23.4.1991.

#. The petitioner, thereafter, applied for getting compassionate appointment with the department. However, the respondent Corporation informed the petitioner by letter dated 9.12.1991 that, as per the communication of the Narmada and Water Resources Department, Gujarat State dated 13.11.1991, the petitioner cannot be given the benefit of compassionate appointment since her husband was serving on the establishment on the basis of 29 days. The petitioner subsequently, challenged the said action by filing this petition.

#. The petition is of the year 1993. It is argued by Mr.Upadhyay appearing for the Corporation that the Corporation has to act as per the instruction issued by the State Government in this behalf from time to time. He submitted that, in view of the decision of the State Government in its Narmada and Water Resources Department, the petitioner was not given the benefit of compassionate appointment. Mr.Upadhyay submitted that, in view of the affidavit in reply filed by the department which is at page 16 onwards, since the petitioner's husband had not completed more than five years as work-charge employee, the petitioner is not entitled to get the benefit by way of compassionate appointment.

#. It is required to be noted that, even though the decision of the Corporation is based on the instruction from the Government, the petitioner has not joined the State Government as party respondent. Apart from the aforesaid aspect, in my view, the claim is also very stale one, in the sense, that the husband of the petitioner died on 23.4.1991 and now it is too late in a day to consider the question of giving compassionate appointment, as practically more than 12 years have passed. The petitioner should have moved the Court for early hearing at the relevant time as such cases are required to be disposed of immediately, otherwise entire purpose of filing of the petition is frustrated. Since on merits, the claim of the petitioner is rejected and since the decision is based on policy of the Government in this behalf, it is not now possible to give any relief to the present petitioner.

#. However, in the facts and circumstances of the case, the petitioner is permitted to make a representation to the State Government highlighting the difficulties which

she might be facing at present. If any such representation is made to the concerned department of the State, the department may take appropriate decision and even if it is possible to consider the request of the petitioner as per the Rules and Regulations, the same may be considered in accordance with law within a period of two months from the date of receipt of such representation. It will be open for the petitioner even to apply to the respondent Corporation to consider her claim for giving her temporary work if the work is available with the Corporation and if any such application is made by the petitioner by which the petitioner can be absorbed even as daily rated employee, the Corporation may consider the same sympathetically and ofcourse as per the Rules and Regulations in this behalf. In my view, since the State is not even party in the present petition, and in view of affidavit in reply of the Corporation as well considering the fact that the petitioner's husband died as back as in the year 1991, it is not now possible to give any direction to the respondent to give compassionate appointment to the petitioner on the regular post. However, if any such representation/application is made as indicated above to the concerned authority, the same may decided as early as possible and appropriate decision may be taken as indicated above.

#. In view of what is stated above, no relief can be given to the petitioner as prayed for. The petition is accordingly rejected subject to the aforesaid observations. Rule is discharged with no order as to costs.

(P.B.Majmudar,J)
(pathan)